

**SUNSHINE ORDINANCE
TASK FORCE**



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**ORDER OF DETERMINATION
March 21, 2015**

DATE RECOMMENDATION ISSUED
February 4, 2015

CASE TITLE - Paula Datesh v. San Francisco Arts Commission (SFAC)(File No. 14089)

FACTS OF THE CASE

Paula Datesh (Complainant) made a complaint alleging that Rebekah Krell, Howard Lazar, and Sharon Page Richie, San Francisco Arts Commission (Respondents), violated provisions of the Sunshine Ordinance by failing to respond to Immediate Disclosure Requests (IDR) in a timely and/or complete manner.

COMPLAINT FILED

On various dates Ms. Datesh filed complaints with the Task Force regarding alleged failure to respond in a timely/and or complete manner.

HEARING ON THE COMPLAINT

On January 20, 2015, the Complaint Committee heard the matter.

Ms. Datesh appeared before the Task Force and presented her claim. File No. 14089 originally consisted of 19 separate complaints regarding the failure to respond to various IDRs. Upon review of the complaints and discussions, Ms. Datesh withdrew 16 of the 19 complaints. The remaining complaints are 14089-4, 14089-5, and 14089-10. In addition to the original complaint, Ms. Datesh believes that the Arts Commission failed to provide assistance to her to identify the requested public records and failed to send a knowledgeable representative to the Complaint Committee meeting.

Rebekah Krell, Deputy Director and CFO, SFAC (Respondent), provided the following response:

14089-4 The SFAC responded to the October 12, 2014, IDR on October 14, 2014. October 12, 2014, was a Sunday and October 13, 2014, was a holiday. The SFAC's responded to the IDR by the end of the next business day in a timely manner.

- 14089-5 The SFAC responded to the October 20, 2014, IDR on October 23, 2014. The SFAC acknowledges that the response to the IDR was two business days late. However, the Complainant provided incorrect information in the IDR request. The SFAC requested clarifying information to determine if Ms. Datesh wanted the March 14, 2012, or the March 13, 2013 audio recording. A CD and a weblink to the audio of the March 13, 2013, Street Artist meeting was previously provided to Ms. Datesh on March 29, 2013.
- 14089-10 The SFAC responded to the September 24, 2014, IDR on September 29, 2014. The SFAC acknowledges that their response to the IDR was three business days late. The August 2014 logbooks were provided. However, Ms. Krell stated in her response to the Complainant that the SFAC did not have any records responsive to the request for an audit of the minutes, agendas, and audio recordings of meetings. During the meeting clarification was provided that an “audit” is a computer generated report detailing the dates and times of the online posting of agenda, minutes, and audio recordings. Ms. Krell volunteered to inquire as to the possibility of generating such an audit report.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the Complaint Committee found the testimony of the parties to be persuasive and finds Administrative Code (Sunshine Ordinance), Section 67.25(a), to be applicable to Complaint Nos. 14089-5 and 14089-10.

RECOMMENDED DECISION AND PROPOSED ORDER OF DETERMINATIONS

The Complaint Committee recommended that the Task Force accept its determination that the Task Force has jurisdiction and find Rebekah Krell, Howard Lazar, and Sharon Page Richie, SFAC, in violation of Administrative Code (Sunshine Ordinance), Section 67.25(a), for failure to respond to Immediate Disclosure Requests in a timely manner in regards to Complaint Nos. 14089-5 and 14089-10. The Complaint Committee further recommends that a referral to committee for oversight/compliance is not justified and that the matter be concluded.

On February 4, 2015, the Sunshine Ordinance Task Force reviewed and adopted the recommendation of the Compliance and Amendments Committee by the following vote:

Ayes: 8 - Rumold, Chopra, Pilpel, David, Fischer, Hinze, Hyland, Washburn

Noes: 0 - None

Absent: 3 - Hepner, Winston, Wolf

A handwritten signature in blue ink that reads "Allyson M. Washburn".

Allyson Washburn, Chair
Sunshine Ordinance Task Force

- c. Members Sunshine Ordinance Task Force
 - Nicholas Colla, Deputy City Attorney
 - Paula Datesh, Complainant
 - Rebekah Krell, San Francisco Arts Commission
 - Howard Lazar, San Francisco Arts Commission
 - Sharon Page-Richie, San Francisco Arts Commission